

REMARKS

Applicants have had to re-file this application as a Request for Continued Examination (RCE) in order to supply expert evidence, not permitted after a "final" rejection, of the technical incorrectness of the Examiner's rejection of the claims as not supported by the disclosure of the application. Such evidence is necessary to complete the record for purposes of appeal, if such becomes essential.

Applicants' return to the tumultuous Middle East has unavoidably delayed the preparation of this response. Applicants are certainly frustrated with the delay in this case that has seriously, if not irreparably, damaged the commercial viability of an ultimate patent, and do not wish themselves to contribute to further delay.

Toward the end of expedition of this case so that applicants will at least not lose all of their rights by delays, they would, upon declaration of an interference, be prepared to rely on claims 1, 2, 3 and 57 and 58, later discussed.

**The Examiner's New "Theory"
Of §112 Rejection of Claim 1 Is
Improper, Flying Directly In The
Face Of The Established Patent
Office Rules**

In the remarks accompanying applicants' May 6, 2003 response to the previous Patent Office action of November 7, 2002, the impropriety, if not illegality, of the action of the present Examiner in asserting new grounds of 35 U.S.C. § 112 rejection of the claims was presented. This comes after years of holding applicants' application in suspension to await the outcome of a re-examination of the Cotte et al patent from which applicants had copied claims for purposes of interference.

Never, in response to applicants' status requests, or oral and written communications with the first Examiner, over a *six-year period*, did the first Examiner ever raise any issue of the adequacy of applicants' specification to support a single one of these claims--only the continuing promise of the declaration of an interference "soon".

As earlier pointed out--and the present Examiner has *not* answered this--MPEP-Sec. 2307.04. --specifically restricts the use of such a suspension to cases "*otherwise in condition for allowance*".

The first Examiner thus clearly issued the suspension under this understanding of allowability to applicants; and applicants had no objection, being also anxious to determine the validity of the claims under re-examination.

As also earlier pointed out--and again the present Examiner has *not* answered this--the MPEP instructs the Examiner to continue the prosecution "as far as possible", being specifically *mandated* by MPEP Sec. 707.07/g to "*reject each claim on all valid grounds available*".

The first Examiner had no such grounds (certainly not § 112) and did not assert any.

As also earlier pointed out--and again the present Examiner has *not* answered this--the MPEP Sec. 706.04 --requires "*full faith and credit...be given to...the action of a previous examiner...(and) an examiner should not take an entirely new approach or attempt to reorient the point of view of a previous examiner...*"

The present Examiner has not explained under what authority he can ignore these rules and make his own rules and have his own "point of view", contrary to the express provisions of the MPEP rules, which are *binding* upon the examining corps.

Withdrawal of this improper and greatly belated § 112 rejection, and the prompt declaration of an interference are therefore respectfully requested--particularly, as will now be shown, in light of the technical incorrectness of the new § 112 rejection.

**Evidence Of The Clear
Technical Errors In The Rejection
Of Claim 1 As Not Supported
In The Application**

Applicants provide herewith the detailed analysis and views of one of the country's leading computer experts—one who was intimately involved and familiar with the scanner-host computer art at the 1992 era of the filing of this application, and with the terminology then used. The accompanying Declaration of Ralph Rodriguez details the serious errors in the Examiner's belated belief of non-disclosure; demonstrating, to the contrary, the full support in applicants' specification of each and every element of claim 1.

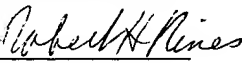
Prompt declaration of an interference on claim 1 is thus totally appropriate, and reconsideration and such declaration are accordingly respectfully solicited.

Newly presented claims 57 and 58 precisely track claims 1 and 2, but instead of using the precise language that the Office (erroneously) has held is not met, substitutes therefor *the exact words* of the application (column 6). Clearly no cited prior art meets these limitations, so that the allowance of claims 57 and 58, with or without an interference, is appropriate and is thus also respectfully requested.

Any costs incurred by this amendment, including for any required time extensions, petition for which is hereby made, may be charged to Deposit Account No. 18-1425 of the undersigned attorneys.

Respectfully submitted,

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